

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

FINAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS DIVISION 2, CHAPTER 6.5, AMEND ARTICLE 1, DEFINITIONS AND GENERAL PROVISIONS, SECTION 1200 AND 1201 AND ARTICLE 2, SCHOOL BUS, SPAB, YOUTH BUS, AND FARM LABOR VEHICLE DRIVER CERTIFICATES, SECTIONS 1217, 1221, 1222, AND 1232 AND ADDS NEW SECTION 1231.2 PAB VEHICLE INSPECTION

MOTOR CARRIER SAFETY PUPIL ACTIVITY BUSES (CHP-R-09-01)

PURPOSE OF REGULATORY ACTION

California Vehicle Code (CVC), Section 34501 requires the Department of the California Highway Patrol (CHP) to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in 34500 CVC. Those regulations are contained in Title 13, California Code of Regulations (CCR).

The CHP has amended and added regulations in Title 13, CCR, relating to certain vehicles, under a new classification of vehicle listed in the CVC, Section 545(k), hereafter referred to as a Pupil Activity Bus (PAB), having a passenger capacity of not more than 25 persons including the driver, while being used for the transportation of pupils to or from school-related activities (i.e., Grad Night, proms), if the vehicle is operated by a charter-party carrier licensed by the Public Utilities Commission, not under contractual agreement with a school or district, whereas, this vehicle is excluded from the definition of school bus.

The amended regulatory action will establish periodic safety inspection requirements; inspection fees authorized by CVC, Section 12517.45, for vehicles define in CVC, Section 545(k); and annual vehicle safety inspections conducted by the CHP. The proposed regulatory action will also prohibit alcoholic beverages transported in a PAB; smoking in a PAB, when a pupil is aboard; and prohibit the driver from ejecting any school pupil unless the pupil is given into the custody of a parent or any person designated by the parent.

The CHP also amended Section 1201 by adopting, by reference, the Society of Automotive Engineers (SAE) definition of "Motor Vehicle Chassis," as defined in SAE Standard J687c, June 1972. This rulemaking action will clarify the term chassis as used in 13 CCR, Section 1272 and other sections within Chapter 6.5. The 1972 edition of SAE Standard J687c is referenced due to this edition being in effect when Title 13, CCR, Section 1272, was amended in 1981, adding subsection (c) for chassis modifications. This amendment is a technical, nonsubstantive change

to existing regulation and is being done to clarify language in an effort to make the chapter easier to use.

The CVC, Section 2402 authorizes the Commissioner of the CHP to make and enforce regulations as necessary to carry out the duties of the CHP.

The CHP amended Title 13, CCR, Sections 1200, 1201, 1217, 1221, 1222, and 1232, with regard to PAB requirements, and adds new Section 1231.2.

SECTION BY SECTION OVERVIEW

Article 1, Definitions and General Provisions

§1200 - Scope.

Subsection (a) added pupil activity buses (PAB), CVC, Section 545(k), to the list of vehicles to which the motor carrier safety regulations in Title 13, CCR, Chapter 6.5, apply. Adding 545(k) CVC clarifies Chapter 6.5 is applicable to vehicles listed in that Section.

§1201 - Definitions.

Subsection (b) added CVC, Section 545(k), to the list of vehicles defined as either a “Type 1” or Type 2” bus. School buses and all other buses are subject to a classification of either Type I or Type II, depending upon gross vehicle weight, year model, and passenger capacity, which will vary the applicability of certain safety regulations; therefore, 545(k) CVC vehicles need to be classified as one of the two types of buses in order to properly apply the regulations.

Subsection (c) added the definition of “Motor Vehicle Chassis,” as defined in SAE Standard J687c, June 1972. The term “motor vehicle chassis” is used in certain sections of Title 13, CCR, Chapter 6.5. The original use of the term was based upon an SAE definition; however, the term was not defined to readers and users of Title 13, CCR, Chapter 6.5, therefore in order to apply the term consistently, a regulatory definition of the term is necessary.

Subsection (u) added “Pupil Activity Bus” (PAB) under definitions, defining PAB as any motor vehicle specified in CVC, Section 545(k). Additional changes to subsections (c) thru (gg) are made to alphabetically accommodate “Chassis” and “PAB”.

The PAB is a new vehicle type, described in CVC, Section 545(k), defining a motor vehicle operated in a specific mode, with a specific passenger capacity, as an exception from the definition of school bus. In order to more clearly identify the type of vehicle listed in CVC, Section 545(k), the CHP has elected to label this vehicle type in order to more clearly identify its use throughout the regulations.

Subsection (v) added PAB to the list of vehicles identified in the term “Pupil Transportation”. The term pupil transportation is used in certain sections of Title 13, CCR, Chapter 6.5. The pupil

transportation regulations apply to specific vehicles transporting school pupils. The new PAB, 545(k) CVC, vehicles will be transporting school pupils, therefore requiring PAB to be included in the term “school pupil transportation.”

Article 3, General Driving Requirements

§1217 - Transportation of Passengers.

Subsection (j) is amended to prohibit a PAB driver from ejecting any school pupil unless the pupil is given into the custody of a parent or any person designated by the parent. Operators of school pupil transportation vehicles are prohibited from ejecting pupils except to give custody of the pupil to a person designated by the school. The PAB operation does not involve a direct contract with the schools; therefore, it would be inappropriate to require PAB operators to release pupils to the school. For this reason, it was necessary to create a new sub-section with the exact wording, except to permit the operator to release to pupil into the custody of a parent or any person designated by the parent. Additional change to add subsection (k) was repositioning to accommodate “ejecting of pupils”; this change is nonsubstantive and was inadvertently omitted from the initial statement of reasons.

Article 4, Additional Requirements for School Bus, SPAB, and Youth Bus Drivers

§1221 - Alcoholic Beverages is amended to prohibit the transportation of alcoholic beverages, in a PAB, at any time. Motor carriers transporting school pupils in a PAB vehicle are prohibited from transporting alcohol, providing a safe and appropriate controlled environment for the pupils.

§1222 - Smoking is amended to prohibit smoking in a PAB when a pupil is onboard. Motor carriers transporting school pupils in a PAB vehicle are prohibited from smoking, providing a safe and appropriate controlled environment for the pupils.

Article 6, Carrier Requirements

§1231.2 - PAB Vehicle Inspection.

Subsection (a) is added to require each PAB be inspected, by an authorized employee of the CHP, every 13 months. This subsection mandates PABs to be inspected by the CHP annually to verify and/or ensure motor carriers maintain PABs in a safe and proper operating condition. The vehicle inspection will be performed by CHP consisting of an in-depth inspection verifying compliance with requirements listed in Title 13, CCR and CVC. Any violations discovered are required to be repaired and documented, and any repair record shall be retained by the carrier for one year pursuant to Title 13, CCR, Section 1234.

Subsection (b) is added to require the inspection report, issued by the department, be placed in the vehicle in an easy-to-reach location and be presented, upon request, to any person using the

services of the motor carrier or any authorized representative of the CHP. The purpose of this subsection is to ensure verification of a CHP inspection is available for a user of the PAB operator is able to verify the vehicle was inspected by a representative of the CHP

Subsection (c) is added to require an inspection fee of seventy-five dollars (\$75) for each PAB to be inspected. This subsection is a charge to charter-party carriers for those costs associated with the CHP conducting the annual vehicle inspection. Assembly Bill No. 830, Chapter 649, 2008, permits CHP to charge a reasonable fee sufficient to cover the costs incurred for conducting the annual inspections.

§1232 - Vehicle Inspection and Maintenance.

Subsection (b) is amended to require periodic preventive maintenance for each PAB, and require every PAB be inspected every 3,000 miles or 45 calendar days, whichever occurs first. Motor carriers are required to have a systematic preventive maintenance program and maintain vehicles in a safe and proper operating condition pursuant to Title 13, CCR, Section 1232(a). This subsection requires a periodic safety inspection in addition to the carrier's regular systematic preventive maintenance program. School buses, School Pupil Activity Buses (SPAB), and General Public Paratransit Vehicles (GPPV) transporting school pupils are examples of other types of vehicles required to have this periodic inspection.

WRITTEN COMMENT PERIOD

The CHP received no written response to the November 9, 2010, Modified Notice of Proposed Regulatory Action.

PUBLIC HEARINGS

No public hearings were requested during the open comment period, therefore, none were held.

STUDIES/RELATED FACTS

The provisions of Assembly Bill 830 became operative January 1, 2009, and mandated the CHP adopt rules and regulations specific to PAB vehicles. These amendments are promulgated as a result of the mandate.

The following documents lend support or are otherwise related to this proposed rulemaking. Copies of these documents, or relevant portions thereof, can be obtained from the CHP by telephone at our Commercial Vehicle Section at (916) 843-3400, 1-800-735-2929 (TT/TDD), 1-800-735-2922 (Voice), via Facsimile at (916) 332-3154, or by e-mail; cvsregs@chp.ca.gov. Please note: All requested materials will be sent via United States Mail. The documents are also available on the Internet.

Title 13 is available on-line at <http://ccr.oal.ca.gov>

California Codes are available on-line at <http://www.leginfo.ca.gov>

The SAE Standard J687c, June 1972, is a supporting document to this proposed rulemaking. As this document is copyrighted by SAE, copies are not available for mailing by CHP. The standard may be viewed, by appointment only, at the CHP, Commercial Vehicle Section (CVS). A copy of this document is also available from the SAE. You may contact the SAE at (877) 606-7323 and request purchase of SAE J687c, June 1972.

ALTERNATIVES

Amend the existing regulations in 13 CCR to address the needs of school pupil transportation providers: The CHP has determined that no reasonable alternative identified by the CHP, or that has otherwise been brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

This is the alternative selected as it best meets the needs of many school pupil transportation providers and the Department without a compromise to safety.

Alternatives Identified and Rejected

Make no changes to existing regulation. This alternative was rejected because it fails to provide for conformance to the Legislative intent contained in Assembly Bill 830 as approved in the 2008 Legislative session.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

While a fee of \$75 is imposed on each vehicle inspected, the inspection of the vehicle is for a purpose not previously permitted. This has the potential to expand the business opportunities of the effected industry.

A charter-party carrier business choosing to operate a motor vehicle pursuant to CVC, Section 545(k), will be charged a \$75 annual inspection fee for each vehicle. There are approximately 3,723 buses in California, as indicated by the California Public Utilities Commission (CPUC), which operate motor vehicles with an 11-25 passenger capacity that are eligible to take advantage of the school bus exception. Businesses in California may incur an estimated total cost of \$279,225 annually, if every eligible bus participates in the pupil activity bus program.

FISCAL IMPACT TO THE STATE

The Department has determined these regulation amendments will result in:

- No significant increased costs for owners or operators of school pupil transportation providers;
- No significant compliance cost for persons or businesses directly affected, other than to reimburse those costs incurred by the CHP; the CHP may incur an approximate cost of \$336,409 annually; associated to conducting the annual motor vehicle inspections of vehicles operated pursuant to CVC, Section 545(k); if every eligible bus based in California participated in the program. There are approximately 3,723 buses in California, as indicated by the CPUC, operated by 1,079 for-hire passenger charter-party carriers, with an 11-25 passenger capacity, eligible for the pupil activity bus program; Assembly Bill No. 830, Chapter 649, 2008, permits the CHP to charge a charter-party carrier a reasonable fee sufficient to cover the costs incurred for conducting the annual inspections;
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of this state to retain businesses.